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Human Rights Council
Thirty-ninth session
10-28 September 2018
Agenda item 4
Human rights situations that require the Council's attention

Written statement* submitted by the International Educational Development, Inc., a non-governmental organization on the roster

The Secretary-General has received the following written statement which is circulated in accordance with Economic and Social Council resolution 1996/31.

[28 August 2018]

* Issued as received, in the language(s) of submission only.

GE.18-14708(E)

1814708

Please recycle

The continuing crisis of the Hmong people in the Lao People's Democratic Republic**

International Educational Development, Inc. and the Association of Humanitarian Lawyers continue to be deeply concerned about the dire situation of the Hmong people in the Lao People's Democratic Republic (hereinafter Laos). We have submitted a number of written statements and urgent action appeals, including to the Special Advisor to the Secretary-General on the Prevention of Genocide and Mass Atrocities and have maintained that the situation invokes the "Responsibility to Protect (R2P) principles as the Hmong people are at risk of extermination. Given both the history of the Hmong people and their more than 40-year-long grave situation, we urge that they have the right to self-determination as the only way to realize their basic human rights.

At the 37th session of the Council, we again spoke of the intention of the Laotian authorities to eliminate the Hmong people before the Council can take measures. As the session was ending, the Laotian Army attacked and killed a group of Hmong who they claimed were trying to communicate with the Hmong people in the jungle. The authorities apparently stated that this was a warning to all traitors of Miao behavior (note that the term Miao" is disrespectful) and that they shall be killed to terminate them from this land. The Lao Army continues to carry out actions against the Hmong peoples to meet what they refer to as the deadline of 2020 to rid Laos of all Hmong in the traditional territories, and before there is any action by the Council or the international community as a whole. At present their numbers in Laos are catastrophically reduced with hundreds of thousands living in exile.

In exercising the right of reply following our statements at earlier sessions of the Council, the Laotian representative asserted to the Council that under Laotian law, all groups enjoy the same basic rights, and all live in harmony. While that may be true for other ethnic groups in the country, it is definitely not true for the Hmong people as we have shown in our submissions -- they have been subjected to genocidal conditions since the end of the Vietnam War. At the Council's 38th session, the government again exercised the right of reply to one of our statements, claiming that we should be embarrassed by our assertions. Rather than our being embarrassed, we assert that the Lao authorities should be embarrassed by their assertions regarding the Hmong and note that the authorities have denied requests by international actors to investigate properly what is occurring. For example, in July 2018 a member of the United States House of Representatives from Virginia introduced a resolution regarding the Hmong situation, and noted the refusal of the Laotian authorities to grant requests of States and non-governmental organizations to investigate.

The situation in Laos has been further worsened by the catastrophic collapse of the dam in Xe-Pian Xe-Namnoy area in July 2018 that caused widespread flooding and the deaths or displacement of thousands. It is assumed that the waters displaced land mines and other unexploded ordnance from the Vietnam War. While the impact of this on the Hmong community is unclear, Laotian authorities have banned international organization such as the Red Cross and Save the Children from reporting on casualties or the overall situation, again illustrating how Laos operates in attempted secrecy bordering on paranoia. The full toll of this catastrophe will likely never be known. Meanwhile Laos plans to construct another 150 dams in its territory, making Laos into what they refer to as the "battery of Asia" – selling electric power to Thailand and other countries. This will cause widespread displacement of thousands of Laotians and will definitely affect the Hmong people. There seems to be no plan by the authorities to evaluate properly the construction failures of the July dam failure and we fear what may occur with the other dams.

We have proposed, as an interim measure before the Hmong people are granted their right to self-determination, that the international community establish a special protected area guarded by international actors in the Hmong traditional area. This type of "safe haven" would allow the surviving Hmong people to congregate, to receive humanitarian aid and to communicate with the outside world unfettered by the Laotian authorities. The safe haven should be located near an international border to facilitate entrance and egress of interested parties such as humanitarian aid workers, the media and, of course, relatives. Failure to establish such an area is likely to encourage the Laotian authorities to continue their hostile actions against the surviving Hmong.

Conclusions and recommendations

It is patently clear that the Laotian authorities have no intention adequately to address the situation of the Hmong people. It is also clear that action by United Nations bodies to date continues to be grossly inadequate to address their genocidal situation. Laos continues to refuse on-site investigations. While the treaty bodies have addressed the situation, they can only issue early warnings and urgent actions and we hope that the Council, the General Assembly or the Security Council take affirmative action, which to date has not occurred. The UPR process served to illustrate or identify violations, even serious ones, but it alone is not an action procedure. The International Committee of the Red Cross can undertake relief efforts, but in this case are restrained from doing so by the relevant authorities.

As a result of the urgency of this situation, we again recommend that the following actions be undertaken:

1. The High Commissioner should undertake to establish a safe haven for the Hmong people as soon as possible. Alternatively, the High Commissioner could request the Secretary-General to act in this regard. The Council should support such action.
2. The international community should invoke the Responsibility to Protect (R2P) mechanisms as soon as possible due to the genocidal situation and should recognize the right to self-determination of the Hmong people.
3. The Secretary-General should consider other action on this situation such as encouraging or instigating independent investigation, including the issue of unexploded ordnance in the Hmong areas.
4. The relevant mandate holders of the Council, including those addressing summary execution, disappearances, torture, internally displaced persons, health, food, water and sanitation, arbitrary detention, human rights defenders, truth, and minority issues should insist on site visits to the Hmong areas in Laos, either alone or in concert.
5. Given that nearly all special procedures are highly relevant to the situation in the Hmong areas of Laos, the Council should consider requesting the High Commissioner to undertake action such as establishing a commission of inquiry as has been established in other situations. In the alternative, the Council should establish its own commission of inquiry or appoint a special rapporteur or independent expert.

**The Association of Humanitarian Lawyers, Inc., an NGOs without consultative status, also shares the views expressed in this statement.

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Technical assistance and capacity-building

Written statement* submitted by the International Educational Development, Inc., a non-governmental organization on the roster

The Secretary-General has received the following written statement which is circulated in accordance with Economic and Social Council resolution 1996/31.

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1814709

Please recycle

The situation in Somalia**

International Educational Development, Inc. and the Association of Humanitarian Lawyers have worked on the situation in Somalia for many years. While we have had a particular focus on judicial reform, we have also addressed other pressing issues. In this statement we provide comments on the current situation in Somalia and the visit of the Independent Expert. We conclude with suggestions for achieving progress in the situation of human rights in Somalia.

Continuing terrorist acts in Somalia

Al-Shabaab continues to engage in terrorist acts on a regular basis in spite of efforts by numerous players including AMISON, Somalian forces, Kenyan forces and United States of America operatives. Just after the end of the 36th session of the Council, al-Shabaab carried out its largest act to date with an attack in Mogadishu that killed over 300 persons and injured at least 200 others. Since then there have been a number of other attacks including an attack on a football field shortly before the Independent Expert's visit in April/May 2018. In early July, 2018 al-Shabaab targeted the Interior Ministry. According to persons who have left al-Shabaab, the group continues to amass considerable funds through road blocks and other coercive measures. Others have reported clashes between factions of al-Shabaab, although this is difficult to prove due to the inability of Somalian, Kenyan or AMISON forces to move freely in territory occupied by al-Shabaab. The numbers of al-Shabaab fighters also remains elusive, with most estimates showing between 5 and 8 thousand persons and apparently growing over the past years.

The humanitarian crisis

The humanitarian situation remains dire in Somalia due to a long drought and now serious flooding. Flood waters engulfed much of Mogadishu and nearby areas in summer 2018. As many as half a million Somalis are affected by this flooding, while hundreds of thousands of others are displaced by drought and the search for food. Large numbers of Somalians have fled into Kenya. As noted by the Independent Expert, Bahame Nyanduga, in his statement of 26 May 2017, more than half the population faces acute food and water shortages and he urged donors to contribute $4.5 billion to combat Somalia's "biggest humanitarian crisis in history." Funds, however, are far short of this figure, and there has not been as much progress in returning people to their original homes as hoped.

The political situation

The political situation also remains troubling with many crucial reforms awaiting action from the executive branch and the parliament. We are pleased to note, however, the establishment of the Joint Programme on Human Rights and hope that this new body is able to improve the overall situation of human rights in Somalia. Elections involve only a very small percentage of the population and the current government actually controls only a very small portion of the country, making national unity in the near future improbable. Somaliland and Puntland remain essentially separate.

Piracy

After several years of decreasing incidences of piracy in Somalia and the region, there are fears that it is increasing. Experts on the subject have urged the government of Somalia to undertake serious action at prevention of piracy, including addressing the root causes such as human rights violations and the fear of severe overfishing in Somalian waters that would further impact Somalian food security.

Activities of the Independent Expert

We were pleased that the Independent Expert was able to carry out a mission to Somalia in April and early May, 2018 May in spite of security concerns and we await his report of that mission at the Council's 37th session. He issued a statement following his mission and again addressed the situation of the traditional elders and their Xeer system, especially in regards to the need to protect women from female genital mutilation, rape and sexual violence and to comply with international standards (the Paris Principles) in carrying out their functions. He also stressed the need for continued progress in judicial reform as a whole. In our view, without a well-functioning judiciary, the goal of a unified Somalia may be impossible. We continue to urge a road map for judicial reform and again offer to assist the Independent Expert in this regard.

Recommendations and conclusion

Somalia continues to be the country with what seems to be the most problems and the least capacity to address them. Somalia is also located in a very critical part of the world and its security and stability are essential to regional security

and stability. The international community as a whole should work in concert to achieve both security and stability in Somalia and the region.

The African Union needs to continue its efforts and should increase the number of troops in Somalia. We are uncertain as to the efficacy of US air strikes and are concerned that there are no guarantees that civilians are protected in such operations. We are also concerned about the role of the Kenyan military and believe study into whether it should be part of AMISOM is needed. Further efforts should be made to surround and isolate al-Shabaab and to prevent their ability to set up road blocks and other mechanisms to obtain funds.

The international community should also address the issue of food and water security as a matter of great urgency to remedy the severe effects of the prolonged drought and now the flooding. The international community should also assist the government of Somalia to reduce piracy in Somalia and the region and to address its causes.

The Independent Expert carries out his valuable work for the Somali people and with sensitivity to the many often competing issues at stake. We urge the Council to continue his mandate and with adequate funds. We urge the international community as a whole and the Council and its mandate holders in particular to support his work and to provide assistance where useful. We especially urge all interested States to review ways in which they can work with the Independent Expert on judicial reform and to provide meaningful resource assistance for it as a matter of the highest priority.

**The Association of Humanitarian Lawyers, Inc., an NGO without consultative status, also shares the views expressed in this statement.

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Human rights situations that require the Council's att ntion

Written statement* submitted by ODHIKAR - Coalition for Human Rights, a non-governmental organization in special consultative status

The Secretary-General has received the following written statement which is circulated in accordance with Economic and Social Council resolution 1996/31.

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1814712

Please recycle

Bangladesh: Rampant disregard for human rights through extrajudicial killings in the "War on Drugs"

Dhaka, 20 August 2018: Odhikar calls the attention of the Human Rights Council to the rising trend of extrajudicial executions in Bangladesh. Under the pretext of a "War on Drugs", the incumbent government of Bangladesh has escalated extrajudicial killings in the country as a means of eliminating opposition activists and silencing critics through fear, in an attempt to secure uncontested victory in the upcoming general elections scheduled for the end of 2018.

Extrajudicial executions have been increasingly carried out by law enforcement agencies since 2004 and successive governments have only encouraged this process while affording impunity to the perpetrators. Law enforcement agencies have been encouraged to commit these killings on hire by the government, sometimes rewarded with monetary payments and a complete lack of accountability for their actions. Reported incidents show that law enforcement personnel are being used to carry out assassinations that guarantee the elimination of political rivals, or for settling financing disputes.

Adding fuel to the fire, on 3May2018, Prime Minister Sheikh Hasina ordered the Rapid Action Battalion (RAB) to conduct a nation-wide, anti-drug operation. Furthermore, she had "given special responsibility to all law enforcement agencies, intelligence agencies and RAB," stating that "stern action will be taken against drug dealers and [we] are taking such stern action"1. These 'stern actions' have manifested into extrajudicial executions.

The aftermath of this decision has led to a wave of executions, with 129 killings between 15 May and 30 May alone. When accounting for June and July, the numbers rose by 63.6%, with 38 and 44 reported deaths, respectively, as a result of this 'anti-drug drive' by law enforcement agencies. 138 of these cases were conducted by the police, and 56 by the Rapid Action Battalion (RAB). The joint operations by the Detective Branch of Police (DB) and Border Guards Bangladesh (BGB) and RAB are responsible for the rest. To date, there have been 211 deaths related to the 'War on Drugs'.2

According to police and RAB, the victims were killed in 'gunfights' with law enforcement, while allegedly engaged in drug peddling. They have often claimed that firearms and drugs were seized from the scenes. While officials of law enforcement agencies have asserted that the victims were indeed 'drug peddlers,' several families of the deceased have challenged these allegations.

One pertinent case is that of Bangladesh National Party (BNP) activist Alamgir Hossain Badsha. On 23 July 2018, Badsha was picked up from his home, following which his whereabouts remained unknown to his family. He was later allegedly shot dead by RAB in Sonargaon, under Narayanganj district on 24 July. RAB claimed that Badsha had been killed in a counterattack during an anti-drug drive, and only informed his family the next day. His wife, Suraiya Begum asserts that Badsha was not a drug peddler.3

The motivation for extrajudicial killings were exposed the case of Samar Krishna Chowdhury, a lawyer's assistant, who was taken from Chittagong Court Building area to the local police station on 27 May 2018. Samar was picked up by a group of police officers, led by Sub-Inspector (SI) Arifur Rahman of Boalkhali Police Station, and handcuffed and blindfolded at around 1:30 am, by SI Atiqullah and SI Arifur Rahman. He was then taken to Charandwip Union in a van, where policemen removed his restraints and commanded him to run for his life. Fearing that this would lead to his death by "crossfire", Samar refused to run. SI Arif received a phone call, following which Samar was taken back to the police station, where photos were taken of him with illegal Yaba (narcotics) pills and a firearm. Police later reported that he had been arrested in two cases: one over the recovery of Yaba pills, and the other over possession of the firearm.

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1 Human Rights Monitoring Report, Odhikar, May 2018/ http://odhikar.org/wp-content/uploads/2018/06/human-rights-monitoring-report-May-2018_Eng.pdf

2 Human Rights Monitoring Report on Bangladesh, Odhikar, July 2018/ http://odhikar.org/wp-content/uploads/2018/08/human-rights-monitoring-report-July-2018_Eng.pdf

3 The Daily Star, 20 July 2018, https://www.thedailystar.net/backpage/they-asked-me-run-1608313

Samar, who was freed on bail in July, told reporters that police tortured him at the police station before attempting to kill him in "shootout"4.

One of the most controversial cases of extrajudicial killing was that of Ekramul Haque, Councilor of Teknaf Municipality. On 26 May 2018, at approximately 1:00 am, Ekramul Haque was killed in what was described (by RAB) as a 'gunfight' between RAB and drug peddlers in Cox's Bazaar. RAB alleged that Haque was a wanted drug dealer who stood accused in two narcotics cases. However, the first case, filed in 2008, was dismissed by the court; and a report that cleared him of charges, had already been provided by the police for the second case. Contradictory versions about his involvement in drug dealings soon emerged; for example, Soman Mondol, Assistant Director of the Department of Narcotics Control (DNC) in Cox's Bazar, commented: "As far as I know, the DNC did not file any case against Ekramul Haque".5 Other testimonies that enhanced the uncertainty surrounding the purported allegations came from Haque's brother, who stated that Haque had no links to the Yaba trade whatsoever. His wife, Ayesha Begum even demanded that RAB produce evidence to support their allegations (which have yet to surface). His family also provided a number of audio recordings, in which he can be heard talking to his daughter over a series of mobile phone calls, before a number of gunshots and screams of pain ensued, followed by discussions among the perpetrators regarding planting of the evidence.6Likewise, several locals –the president of Teknaf Municipality unit of Awami League, Jabed Iqbal Chowdhury– also denied being aware of Haque's involvement in the Yaba trade.

For a fortnight, this incident was joined by a slew of extrajudicial killings of alleged drug dealers in so-called 'shootouts' with RAB and the police. These events, together with 1796 other incidents of extrajudicial killings since 2009 to July 20187, demonstrate a consistent trend of extrajudicial killings under various, often staged, pretexts.

It is unlikely that there will be an end to these unlawful executions in the foreseeable future. The cases cited above offer only a cursory glimpse into the systematic disregard for law. Institutional inefficiency in safeguarding rights and the inability to afford redress, clearly indicates the extent of incompliance, as political and financial interests have rejected any form of deference to human rights obligations. Under the guise of its vested interests towards "fighting extremism or militancy" and "extending generosity to the Rohingya refugees from Myanmar"– both efforts that have enjoyed applause from the international community and hoisted Bangladesh as an emblematic upholder of human rights in the global eye –the government has been able to mask scrutiny of its numerous grave human rights violations, including enforced disappearances and extrajudicial executions.

The political ramifications of these extrajudicial killings have been made all the more apparent in light of the farcical general elections of January 2014, in which the ruling party won more than half of the available parliamentary seats uncontested and thus extended Prime Minister Sheikh Hasina's term in office. In an effort to reproduce the results, the Prime Minister remains indifferent to the people's and opposition parties' demands for a credible and inclusive general election under an independent caretaker government. Dissent is being silenced through extrajudicial killings and instilling fear. Moreover, there is no local institution before which the government can be held accountable, as no "opposition" currently exists in Parliament. Accordingly, the incumbent government, lacking true democratic legitimacy without the people's mandate, relies on the use of lethal force of its law enforcement agencies to muzzle any voice of dissent.

Recommendations:

1. Odhikar urges the UN Human Rights Council to assess Bangladesh's domestic human rights situation comprehensively and break the system of abuse that has taken root within the bedrock of the nation through urgent intervention.
2. Establish an independent commission and thoroughly and impartially investigate all allegations of extrajudicial killing and prosecute the perpetrators by ensuring justice.

4 Ibid

5 The Daily Star, 28 May 2018, https://www.thedailystar.net/frontpage/teknaf-al-leader-killed-crackdown-1582528

6 Dhaka Tribune, 3 June 2018, https://www.dhakatribune.com/bangladesh/law-rights/2018/06/03/what-was-in-the-audio-clips

7 Odhikar documentation available at http://odhikar.org/statistics/killed-by-law-enforcement-agencies/

3. Ensure access to justice to victims and disadvantaged groups, in order to curb impunity for extrajudicial killings and prevent their recurrence.
4. The government must allow the Special Rapporteur on extrajudicial, summary or arbitrary executions to visit the country as per his mandates to address the present climate by bringing the perpetrators to justice and preventing the recurrence of such reprehensible crimes against humanity in the future.
5. Law enforcement agencies must be urged to follow international guidelines as defined in both the "Basic Principles on the use of Force and Firearms by Law Enforcement Officials" and the "UN Code of Conduct for Law Enforcement Officials".
6. The government must follow the recommendations to end torture and extrajudicial deaths, as put forth by the UN Human Rights Committee during its 119th session.

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Written statement* submitted by ODHIKAR - Coalition for Human Rights, a non-governmental organization in special consultative status

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Please recycle

Bangladesh: Stop restrictions on the rights to freedom of opinion, expression and of peaceful assembly and association

Dhaka, 20 August 2018: Odhikar expresses grave concern over the recent, intensified violent attacks on citizens, including school, college and university students, rights activists and journalists; for expressing opinions and holding spontaneous protests. The incumbent government is becoming increasingly intolerant towards rights to freedom of association, expression and opinion as it seeks to retain power at all costs by preventing the democratic participation of its citizens. Peaceful assemblies for legitimate demands have been attacked by police through the use of excessive force and with alleged and reported assistance from ruling party activists and its violent supporters. Recent examples of such violence are as follows:

1. On 29 July, 2018 two college students were killed by a recklessly speeding bus on Airport Road in Dhaka City. Students staged a protest calling for safe roads. The Shipping Minister and Executive President of the Bangladesh Road Transport Workers Federation, Shahjahan Khan, questioned journalists as to why there should be such outrage at the death of two students.1 As a result the student protest spread quickly and school and college students were joined by university students. They began asking for the implementation of a 9-point demand, including the resignation of the Shipping Minister Shahjahan Khan, punishment of the killer bus driver and assurances for safer roads.

Students carried out protests peacefully by checking licenses of drivers and registrations of vehicles, making emergency lanes, etc. However, police accompanied by ruling party activists with sticks, iron rods, and machetes; some wearing helmets to hide their identity, attacked students leaving many of them severely wounded. Several journalists were attacked and a female journalist molested.2 On 4 August 2018, the government ordered telecommunication operators to shut down 3G and 4G mobile internet services across large parts of the country to restrict sharing of information on social media.3 Meanwhile, Detective Branch (DB) of Police arbitrarily picked up internationally renowned photographer, Dr. Shahidul Alam at around 10:30 pm on 5 August 2018, without any arrest warrant, after he gave an interview on Al Jazeera over the student protests.4 According to his statement to journalists before he entered court, the DB Police tortured him in the custody. He was bare-footed and supported by police as he walked to court.5 The arrest and mistreatment of someone as prominent as Shahidul Alam shows the dangerous escalation of the government's crackdown on dissenting voices.

The police with ruling party men, also surrounded the campuses of East West University, North South University, BRAC University on 6 August 2018 and fired tear gas shells and bullets inside the campus of the East West University. Police arrested 22 students of East West University, North South University, BRAC University and South East University. They suffered ill treatment in the police station and after appearing before the court, were taken into two-day remand. After that, they were sent to jail when their bail petitions were rejected.6 According to media reports around 35 cases were filed with 16 police stations from 29 July to 10 August 2018, in which 42 persons were arrested.7 Among those 35 cases, six were filed under the repressive Information and Communication Technology Act in which nine persons were arrested, including photographer Shahidul Alam and actress Quazi Nawshaba Ahmed.8

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[1] The Daily Star, 2 August 2018; https://www.thedailystar.net/city/shipping-minister-shahjahan-khan-begs-apology-deaths-father-visits-victims-home-1614514

[2] The daily Dhaka Tribune, 5 August 2018; https://www.dhakatribune.com/bangladesh/dhaka/2018/08/05/daily-star-journalists-assaulted

[3] "Police again fire tear gas at students as government cuts internet access amid escalating demonstrations", Al Jazeera, 6 August 2018; https://www.aljazeera.com/news/2018/08/bangladesh-officials-restrict-internet-student-protests-180805071428323.html

[4] "Photographer Shahidul picked up after Al Jazeera interview", the daily Prothom Alo, 7 August 2018; https://en.prothomalo.com/bangladesh/news/181111/Photographer-Shahidul-picked-up-after-Al-Jazeera

[5] CNN, 10 August 2018, https://edition.cnn.com/2018/08/10/asia/bangladesh-photographer-torture-allegations-intl/index.html

[6] "22 private univ students put on remand, 34 cases filed", the daily New Age, 08 August 2018; http://www.newagebd.net/article/47895/22-private-univ-students-put-on-remand, "Road Safety Protest: No bail for 22 pvt univ students", The Daily Star, 10 August 2018; https://www.thedailystar.net/news/city/bangladesh-private-universities-22-students-denied-bail-after-remand-1618207

[7] The daily Prothom Alo, 8 August 2018 and 9 August 2018

[8] The daily Prothom Alo, 11 August 2018

2. University students have been protesting for the reformation of the quota system in public service since February 2018. When the protests spread, Prime Minister Sheikh Hasina, on 11 April 2018, declared the removal of the quota system in Parliament, although the students were demanding reform and not removal of the quota system in government jobs. On 30 June 2018, protesting students of the quota reform movement tried to organise a press conference in front of the Central Library of Dhaka University. Activists of Bangladesh Chhatra League (BCL)9 attacked them just before the conference commenced and injured some students, including Joint Convener of the General Student Rights Protection Council, Nurul Huq Nuru.10 Injured Nuru was forced out of Dhaka Medical College Hospital (DMCH)11 by the hospital authority and later admitted to a private hospital. Police arrested 13 students including Rashed Khan, joint convener of the quota reform movement; and they were allegedly tortured by police in remand. Rashed's mother Saleha Begum, on 11 July 2018, organised a press conference and said that Rashed was tortured by police during remand.12 Female students, involved in the quota reform movement were allegedly sexually harassed by BCL leaders and activists. One female student alleged that after the harassment, Chhatra League activists handed her over to Shahbagh Police Station and police tried to take a false confession from her that she was a drug addict.13

3. Police and many leaders and activists of Awami League barred peaceful programmes organised by the main opposition party (out of Parliament), Bangladesh Nationalist Party (BNP) across the country in protest of the allegedly politically motivated sentence on BNP Chairperson and former Prime Minister Khaleda Zia.14 They attacked the rally and arrested BNP leaders and activists and stopped their programmes. Furthermore, random arrests of opposition party leaders and activists on the pretext of holding 'secret meetings' and for 'vandalism' is becoming very common. Apart from attacking the opposition party BNP, the government is using its party activists and police to attack and stop protest rallies of other organisations.

2018 is significant for Bangladesh as the 11th Parliamentary Elections are scheduled for December 2018. The report of the Special Rapporteur on the rights to freedom of peaceful assembly and of association, Maina Kiai, which was submitted in accordance with Human Rights Council resolution 21/16 in 2013, shows that the rights to freedom of peaceful assembly and of association have increasingly come under attack as incumbent or incoming governments seek to retain or gain power at all costs. It further states that the context of elections deserves special focus because the ability of individuals and associations to form and operate freely is particularly at risk during those periods.15 The view of the Special Rapporteur is very appropriate in the present political context of Bangladesh.

The government's repression on meetings, assemblies and rallies organised by various political parties, organisations and students, violates freedoms guaranteed in Article 37 of the Bangladesh Constitution and Articles 21 and 22 of the International Covenant on Civil and Political Rights (ICCPR). Gross human rights violations in the country have direct links with the curtailment of the right to take part in the conduct of public affairs, directly or through freely chosen representatives,16 as a credible electoral democracy has been severely undermined by the incumbent government.
Odhikar urges the UN Human Rights Council to make the following recommendations to Bangladesh:

1. Protect, respect and ensure the rights to freedom of expression and peaceful assembly and association of all citizens, including the opposition political parties and people who have alternative beliefs or dissenters.
2. Take effective measures to stop harassment, including arrest operations against the opposition and dissenters.
3. Stop filing cases against 'unknown persons' and withdraw such cases which are believed to be repressive. Release all political prisoners.

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[9] Student wing of Awami League

[10] "Quota Movement: BCL swoops on reformists", The Daily Star, 1 July 2018; https://www.thedailystar.net/backpage/quota-movement-bcl-swoops-reformists-1597912

[11] DMCH is a government hospital

[12] Human Rights Monitoring Report, July 2018, Odhikar, page 12, www.odhikar.org/wp-content/uploads/2018/08/human-rights-monitoring-report-July-2018_Eng.pdf

[13] "Every moment felt like hell: *Victim tells her story*", The Daily Star, 6 July 2018; https://www.thedailystar.net/frontpage/it-was-second-hell-1600765

[14] On 8 February 2018, the main opposition party BNP Chairperson Khaleda Zia was sentenced to five years imprisonment in a verdict under the Zia Orphanage Trust corruption case filed during the military-backed caretaker government in 2007 and sent to prison the same day.

[15] A/68/299, paragraph-2, page-3, https://www.ohchr.org/Documents/Issues/FAssociation/A_68_299_en.pdf

[16] Article 25 of the International Covenant on Civil and Political Rights (ICCPR) is seriously undermined since the 5th January 2014 sham election, which was boycotted by all the opposition political parties and the ruling party seized 153 seats out of a total of 300 constituencies of the National Parliament of Bangladesh.

4. Investigate incidents of attacks on students demanding safe roads and journalists covering the movement and take appropriate action against the perpetrators.
5. Stop attacks and suppression on students and teachers who are demanding the reformation of the quota system in public service.

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Racism, racial discrimination, xenophobia and related forms of intolerance, follow-up and implementation of the Durban Declaration and Programme of Action

Written statement* submitted by the BADIL Resource Center for Palestinian Residency and Refugee Rights, a non-governmental organization in special consultative status

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The Israeli Nation-State Law: Underpinning Seven Decades of Institutionalized Discrimination

1. On 19 July 2018, the Israeli Knesset passed the Nation-State Law, cementing seven decades of institutionalized discrimination over the Palestinian people in Israel, the occupied Palestinian territory and exile. The Law states that "the exercise of the right to national self-determination" in Israel is "unique to the Jewish people", unequivocally denying that inalienable right to the Palestinian people. Further, the Law states Israel will be "open for Jewish immigration, and for the Ingathering (sic) of the Exiles", reiterating Israel's continued systematic denial of the right of return of 8.1 million Palestinian refugees and internally displaced persons (IDPs).

2. The Law holds "Jewish settlement as a national value" and mandates that the State "shall act to encourage and promote its establishment and strengthening", perpetuating Israel's domination over occupied people and territory. The utilization of this ambiguous terminology serves to extend Israel's jurisdiction into the oPt and facilitate its transformation from de facto to de jure annexation.[1]

3. Its passing constitutionally embeds these long-held and implemented policies of Israel, validates a plethora of pre-existing discriminatory laws designed to achieve and perpetuate the superiority of one racial group, and reinforces the subjugation and domination of the Palestinian people.

4. The Nation-State Law explicitly reserves the right to self-determination for Jews only; a state of affairs that began in practice with the 1917 Balfour Declaration, the 1922 Mandate for Palestine, the 1947 Partition Plan and culminated in a host of quasi-constitutional laws that ensure rights based on ethno-religious identity. It completely omits any pretence of democracy, which in reality never existed but was utilized to mask institutionalized discrimination. Knesset member and Bill sponsor, Avi Dichter, stated that, "We are enshrining this important bill into a law today to prevent even the slightest thought, let alone attempt, to transform Israel to a country of all its citizen (sic)."[2]

5. The segregation and isolation of the Palestinian people, serves to conceal the reality of the Israeli apartheid system,[3] and suppress the Palestinian people under the development of a geo-political legal hierarchy maintained through a two-tier legal system that systematically denies Palestinians their inalienable and fundamental rights by establishing and maintaining legal and spatial domination of one racial group over another.

6. All Palestinians are suppressed and dominated through domestic legislation and military orders that grant rights to the Jewish-Israeli population (including those in colonies in the West Bank) while denying Palestinians those same rights. Some of these laws include, inter alia: the Law of Return (1950), the Absentee Property Law (1950), the Citizenship (Nationality) Law (1952), Prevention of Infiltration Law (1954) and the Entrenchment of the Negation of the Right to Return Law (2001).[4]

7. Many of these laws were extended to the oPt in the form of military orders such as Military Order 1650 on infiltration, Military Order 418 on zoning and planning, the denial of residency, restrictions on family unification

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[1] BADIL, *Extension of Israeli Sovereignty in oPt Amounts to Annexation: Written Statement of the UN Human Rights Council*, 8 Feb 2018, A/HRC/37/NGO/101.

[2] Reuters and Moran Azulay, *Israel passes nationality bill into law*, Ynet News, 19 July 2019, available at https://www.ynetnews.com/articles/0,7340,L-5312792,00.html.

[3] See the withdrawn report issued by UN Economic and Social Commission for Western Asia; Richard Falk and Virginia Tilley, *Israeli practices towards the Palestinian People and the Question of Apartheid*, E/ESCWA/ECRI/2017/1, 15 March 2017, p. 37, available at https://www.middleeastmonitor.com/wp-content/uploads/downloads/201703_UN_ESCWA-israeli-practices-palestinian-people-apartheid-occupation-english.pdf [hereinafter UN Apartheid Report].

[4] BADIL, *Report to Universal Periodic Review*, 2013.

and registration of children, as well as a military order on Absentee Property.[5] These discriminatory laws and military orders have provided for further legalized discrimination which dictate nearly every aspect of Palestinian life on both sides of the Green Line and in exile.

8. Palestinians were stripped of any legal rights to their land by the 1950 Absentee Property Law, which transferred legal ownership of refugee and IDP lands to Israel, and did so in such a way as to prohibit any claims for restitution of the land.[6] Israel also passed laws that established a system that proliferates Jewish settlement and prohibited Palestinian development. There are laws that give legal force to the Jewish National Fund's mandate to act exclusively for the benefit of Jews,[7] that constitutionally demand Israeli lands be held in perpetuity for Jews,[8] and require that all State land, managed by the Israeli Land Authority and amounting to 93% of land within the 1948 borders, is closed to use, development or ownership by non-Jews.[9]

9. In addition to the annexation of Jerusalem,[10] large swathes of the West Bank have been declared "State lands", closed to Palestinian use and administered by an Israeli institution that is legally bound to administer that land for the exclusive benefit of Jews.[11]

10. The need for the ongoing forced displacement and transfer of the indigenous Palestinian population (including the ethnic cleansing that occurred in 1948)[12] and the denial of their return in order to ensure the Jewish character of the Israeli State, is deeply embedded within Israeli jurisprudence, practice and ideology. The Law of Return and 1952 Citizenship (Nationality) Law are composed in such a way as to guarantee all Jews the right to "return" and immediately enjoy full civil and political rights in Mandatory Palestine (all territory under the effective control of Israel)[13] on the basis of their identity. The Citizenship Law excludes Palestinian refugees from citizenship in Israel: they were "denationalized" and turned into stateless refugees in violation of the law of state succession.[14]

11. Additionally, since 1948, Palestinians have been prevented from returning at all through the enactment of the Prevention of Infiltration Military Order, which became law in 1954, with heavy criminal sanctions.[15] As such, Palestinian refugees and IDPs, and their descendants, have been denied their right of return, while hundreds of thousands of Jews have entered and benefit from the privileges afforded them by Israeli institutionalized discrimination.

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[5] For more information see BADIL's working papers, Forcible Transfer: the Case of Palestine on Denial of Residency, available at http://badil.org/phocadownloadpap/badil-new/publications/research/working-papers/wp16-Residency.pdf; Discriminatory Zoning and Planning, available at http://badil.org/phocadownloadpap/badil-new/publications/research/working-papers/wp17-zonnig-plannig-en.pdf; Land Confiscation and Denial of Use, available at http://badil.org/phocadownloadpap/badil-new/publications/research/working-papers/wp21-LC.pdf.

[6] BADIL, *Israel's Discriminatory Laws: Summary Version*, September 2012, p.16, available at http://www.badil.org/phocadownload/Badil_docs/bulletins-and-briefs/bulletinno.26.pdf.

[7] Jewish National Fund Law, 5713-1953, (Isr.).

[8] *Basic Law: Israel Lands, 5720-1960, (Isr.).*

[9] See UN Apartheid Report, *supra* note 3, 2, and the Virginia Tilley (ed), *Occupation, Colonialism, Apartheid? A re-assessment of Israel's practices in the occupied Palestinian territories under international law*, Human Sciences Research Council of South Africa, 29 May 2009, p.159, available at http://www.hsrc.ac.za/en/research-data/view/4634.

[10] See Al-Haq joint written statement, Legalising the Illegal: The Status of Jerusalem and Unlawful Forcible Transfer*, 13 February 2018, A/HRC/37/NGO/115

[11] UN Apartheid Report, *supra* note 3, 34.

[12] BADIL, "Survey of Palestinian Refugees and Internally Displaced Persons (VIII) 2013-2015", November 2015. Available at: https://www.badil.org/phocadownloadpap/badil-new/publications/survay/Survey2013-2015-en.pdf.

[13] UN Apartheid Report, *supra* note 3, 37-38.

[14] International Law Commission, *Articles on Nationality of Natural Persons in Relation to the Succession of States (With Commentaries)*, 3 April 1999, A/54/10, art.1, available at: http://www.refworld.org/docid/4512b6dd4.html.

[15] Law for the Prevention of Infiltration (Offences and Judging), 5714-1954, SH No. 16, 160, (as amended)(Isr.).

12. Israeli acts, policies and/or practices, committed separately or in combination, are committed as part of "an institutionalized regime of systematic oppression and domination by one racial group" over another and are committed with the intention of maintaining racial domination and oppression over the Palestinian people.[16] In other words, this institutional and systematic discrimination, that is based solely on ethno-religious identity - thereby violating the jus cogens prohibition on racial discrimination,[17] is of such a pervasive nature that it constitutes the crime of apartheid.[18]
13. The current state of affairs, including the enactment of the Nation-State Law, is a manifestation of the ongoing failure of international community to hold Israel accountable and to provide Palestinians with the protection to which they are entitled.

14. On this basis, BADIL calls on the UN Secretary General and UNGA to:
    a. Reassess the decision to withdraw the ESCWA report, "Israeli Practices toward the Palestinian People and the Question of Apartheid, Palestine and the Israeli Occupation, Issue No.1" and seriously consider its adoption;
    b. Urge Member States to fulfil their obligations to hold Israel accountable by cooperating to bring to an end to Israel's system of institutionalized discrimination, refraining from any act which directly or indirectly aids or assists the unlawful situation, and refraining from any action which expressly or tacitly recognizes such a system as lawful, including the imposition of sanctions.[19]

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[16] See UN General Assembly, *Rome Statute of the International Criminal Court*, 2187 UNTS 90, 17 July 1998, available at: http://www.refworld.org/docid/3ae6b3a84.html, Article 7(2)(h), the elements of which are further articulated in the International Criminal Court (ICC), *Elements of Crimes*, ICC-ASP/1/3(Part II-B), 9 September 2002, available at: http://www.refworld.org/docid/4ff5dd7d2.html.

[17] UN General Assembly, *International Convention on the Elimination of All Forms of Racial Discrimination*, 660 UNTS 195, 21 December 1965, available at http://www.ohchr.org/EN/ProfessionalInterest/Pages/CERD.aspx

[18] UN Apartheid Report, *supra* note 3.

[19] Article 41 of the *ILC Draft Articles on Responsibility of States for Internationally Wrongful Acts, with commentaries*, available at http://legal.un.org/ilc/texts/instruments/english/commentaries/9_6_2001.pdf.